



May 3, 2000

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
2014 Main Street, Room 501
Dallas, Texas 75201

OR2000-1392A

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 135283.

The City of Dallas received a request for information relating to a 1969 murder. You seek to withhold the requested information under section 552.108 of the Government Code.

We note, initially, that on April, 10, 2000, this office issued Open Records Letter No. 2000-1392 (2000) in response to your request for a decision. That ruling found that the city had failed to timely submit to this office copies of the requested information or samples thereof as required by section 552.301(e)(1)(D) of the Government Code and that the information was consequently presumed public under section 552.302. Accordingly, Open Records Letter No. 2000-1392, ordered the requested information released.

It has since come to our attention that the city did timely provide copies of the requested information to this office but that the information was improperly routed within this office. We apprized you by our letter of April 25, 2000 of this error and advised that, by May 17, 2000, we would issue a new ruling in response to your request. Please consider this ruling as replacing Open Records Letter No. 200-1392 as issued on April, 10, 2000.

Section 552.108 excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

You advise that the 1969 murder case to which the requested information relates has recently been reopened and that the matter will soon be presented to the grand jury. Based on your representations, we conclude that, except as noted below, you may withhold the information responsive to the request under section 552.108(a)(1).

Please note that section 552.108 does not except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Because you have raised no other exception to disclosure, the city must release these types of information in accordance with *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We also note that the submitted information includes an autopsy report by the county medical examiner. It is the position of this office that such autopsy reports are specifically made public by section 11, article 49.25, Code of Criminal Procedure. Therefore, you must release the autopsy report.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

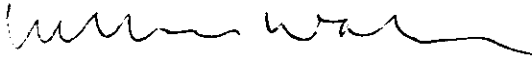
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental

body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 135283

Encl: Submitted documents

cc: Lisa Singh
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(w/o enclosures)